

AGREEMENT

BETWEEN

THE SWISS CONFEDERATION

AND

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

**ON ADMISSION TO THE LABOUR MARKET FOR A TEMPORARY TRANSITIONAL
PERIOD FOLLOWING THE WITHDRAWAL OF THE UNITED KINGDOM FROM THE
EUROPEAN UNION AND THE FREE MOVEMENT OF PERSONS AGREEMENT**

The Swiss Confederation (“Switzerland”) and the United Kingdom of Great Britain and Northern Ireland (“the United Kingdom”), hereinafter collectively referred to as “the Parties”,

CONSIDERING the implications for businesses and citizens if the United Kingdom were to withdraw from the European Union without an agreement providing for a transitional arrangement,

RECOGNISING that in such a scenario the Agreement between the Swiss Confederation, on the one part, and the European Community and its Member States, on the other, on the free movement of persons (“the FMOPA”) will cease to apply to the United Kingdom from the date of the United Kingdom’s withdrawal from the European Union,

NOTING that the Agreement between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on citizens’ rights following the withdrawal of the United Kingdom from the European Union and the free movement of persons Agreement (“the Citizens’ Rights Agreement”) will apply from the date of the United Kingdom’s withdrawal in the above described scenario and will protect the rights of citizens resident on exit day,

APPRECIATING the deep economic, social and historical ties between both countries and affirming the Parties’ wish to discuss future trade and mobility arrangements,

WISHING to continue the excellent bilateral relations between both countries after the United Kingdom’s withdrawal from the European Union,

CONSIDERING the Swiss government’s decision on 13 February 2019 to have a specific quota for United Kingdom nationals in the event of a withdrawal from the EU without a transitional arrangement and considering the United Kingdom government’s policy paper published on 28 January 2019 on European Temporary Leave to Remain in the United Kingdom,

NOTING that both Parties have obligations under the General Agreement on Trade in Services that will apply between the Parties unless any comprehensive trade in services agreement is agreed between the Parties that supplement or replace these obligations,

TAKING INTO CONSIDERATION the Parties’ wish to avoid prejudicing or setting a legal precedent for any future migration agreements after the expiry of this Agreement,

HAVE AGREED as follows:

ARTICLE 1

Objectives

The objectives of this Agreement are:

- (a) to provide a time-limited framework for the admission to the labour market of natural persons on a mutually advantageous basis which shall apply if the United Kingdom were to withdraw from the European Union without a transitional arrangement;
- (b) to preserve recent historical patterns of labour mobility between Switzerland and the United Kingdom during this time-limited period.

ARTICLE 2

Definitions

For the purposes of this Agreement, the following definitions shall apply:

- (a) “transitional arrangement” refers to the transitional period agreed between the United Kingdom and the European Union and means in this Agreement an arrangement during which the FMOPA continues to apply to the United Kingdom after the United Kingdom’s withdrawal from the European Union;
- (b) “United Kingdom national” means a national of the United Kingdom as defined in the New Declaration by the Government of the United Kingdom of 31 December 1982 on the definition of the term “nationals”¹ together with Declaration No 63 annexed to the Final Act of the intergovernmental conference which adopted the Treaty of Lisbon;²
- (c) “withdrawal date” means the point in time when the United Kingdom ceases to be a Member State of the European Union, in the case where there is no transitional arrangement;
- (d) “admission to the labour market” means in the United Kingdom context the right of entry and residence for the purpose of work or self-employment.

¹ OJ C 23, 28.1.1983, p. 1

² OJ C 306, 17.12.2007, p. 270

ARTICLE 3

Scope of application

1. The provisions of this Agreement shall apply, on the one hand, to Switzerland and, on the other hand, to the United Kingdom and Gibraltar. Accordingly, references in this Agreement to the United Kingdom or its territory include Gibraltar.
2. The application of this Agreement is without prejudice to any more favourable national provisions which may exist for United Kingdom nationals in Switzerland or Swiss nationals in the United Kingdom relating to admission to the labour market.

ARTICLE 4

Principles of admission of United Kingdom workers and self-employed persons to Switzerland

1. For United Kingdom nationals who gain admission to the Swiss labour market for more than 4 months the Swiss Federal Council determines annual specific numbers according to Switzerland's general economic interest and respecting the principle of priority.
2. Without prejudice to Swiss national law, when determining the annual number the Swiss Federal Council will take into account the specific demand for United Kingdom national workers on the Swiss labour market and the objectives of this Agreement as set out in Article 1(b).
3. United Kingdom nationals shall be admitted to the labour market as employed persons in accordance with Swiss national law on the following basis:
 - (a) priority requirements on an individual basis shall not apply;
 - (b) personal requirements regarding professional qualifications (including skills requirements) shall not apply;
 - (c) economic interest tests on an individual basis shall not apply.
4. The salary and employment conditions on which United Kingdom nationals are employed in Switzerland must be in accordance with Swiss standards.
5. United Kingdom nationals shall be admitted to the labour market as self-employed persons in accordance with Swiss national law on the following basis:
 - (a) personal requirements regarding professional qualifications (including skills requirements) shall not apply;

(b) economic interest tests on an individual basis shall not apply.

ARTICLE 5

Principles of admission of Swiss workers and self-employed persons to the United Kingdom

1. At the time of the Agreement, there is no quota system in the United Kingdom and the Agreement does not create an obligation to create a quota for Swiss nationals.
2. Swiss nationals who wish to enter the United Kingdom for the purposes of taking up employment or self-employment shall be admitted in accordance with national law on the following basis:
 - (a) the salary and employment conditions on which Swiss nationals are employed in the United Kingdom must be in accordance with United Kingdom standards;
 - (b) economic interest tests (the resident labour market test) shall not apply;
 - (c) skills requirements shall not apply.

ARTICLE 6

Professional mobility

Swiss and United Kingdom nationals falling within the scope of this Agreement have geographical and occupational labour mobility in Switzerland and the United Kingdom.

ARTICLE 7

Cross-border commuters

1. United Kingdom nationals shall be admitted to the labour market in Switzerland as cross-border commuters for the purposes of taking up employment or self-employment in accordance with paragraphs 3 to 5 of Article 4 and Swiss national law if:
 - (a) they live in the United Kingdom or have a right of residence in an EU/EFTA state;
 - (b) they work in Switzerland; and
 - (c) their salary and employment conditions in Switzerland are in accordance with Swiss standards.

2. Swiss nationals shall be admitted to the labour market in the United Kingdom as cross-border commuters for the purposes of taking up employment or self-employment in accordance with paragraph 2 of Article 5 and United Kingdom national law if:

- (a) they live in Switzerland or have a right of residence in an EU/EFTA state;
- (b) they work in the United Kingdom; and
- (c) their salary and employment conditions in the United Kingdom are in accordance with the United Kingdom's standards.

ARTICLE 8

Generally applicable provisions of national law

Provisions of national law that apply generally to the entry and residence of natural persons for the purposes of work or self-employment, including provisions relating to procedures (including redress procedures), restrictions on rights, fees and other administrative requirements are not affected by this Agreement.

ARTICLE 9

Sub-national entities

Each Party is fully responsible for the observance of all provisions of this Agreement and shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territory.

ARTICLE 10

Transparency

1. The Parties shall publish, or otherwise make publicly available, their laws, regulations, procedures and judicial decisions of general application as well as the international agreements which may affect the operation of this Agreement.

2. The Parties shall promptly respond to specific questions and provide, upon request, information to each other on matters referred to in paragraph 1.

ARTICLE 11

Joint Committee

1. A Joint Committee composed of representatives of the Parties shall be responsible for the management, proper application and monitoring of this Agreement. To those ends, it shall issue recommendations where applicable and take decisions in the circumstances provided for in this Agreement. The decision of the Joint Committee shall enter into force after the respective internal procedures have been completed. The Joint Committee shall reach its decisions by mutual agreement.
2. For the purposes of the proper implementation of this Agreement, the Parties shall regularly exchange information and, at the request of either of them, shall consult each other within the Joint Committee.
3. The Joint Committee shall establish its rules of procedure.
4. The Joint Committee shall meet as and when necessary.
5. The Joint Committee may decide to set up any working party or group of experts to assist it in the performance of its duties.
6. The Parties may bring a matter under dispute which concerns the interpretation or application of this Agreement to the Joint Committee.
7. The Joint Committee may settle the dispute. Any information which might be of use in making possible an in-depth examination of the situation with a view to finding an acceptable solution shall be supplied to the Joint Committee. To this end, the Joint Committee shall consider every possible means to maintain the good functioning of this Agreement.

ARTICLE 12

Entry into force and application

1. The Parties shall ratify or approve this Agreement in accordance with their internal procedures. Each Party shall notify the other Party in writing of the completion of those procedures.
2. This Agreement shall enter into force on the later of:
 - (a) the withdrawal date; or
 - (b) the first day of the second month following the date of receipt of the later of the Parties' notifications that they have completed their internal procedures.

3. Pending entry into force of this Agreement, the Parties shall provisionally apply this Agreement on the later of:

(a) the withdrawal date; or

(b) the first day of the first month following the signature of this Agreement.

4. A Party may terminate the provisional application of the Agreement by giving written notice to the other Party. Such termination shall take effect on the first day of the second month following notification.

ARTICLE 13

Termination, extension and withdrawal

1. This Agreement shall terminate at midnight (GMT) on 31 December 2020.

2. Prior to the date specified in paragraph 1 the Joint Committee shall decide whether it is necessary to extend this Agreement. The Swiss Federal Council and the Government of the United Kingdom have the competence to approve the decision of the Joint Committee to extend the Agreement.

3. Either Party may withdraw from this Agreement by means of written notification to the other Party. The withdrawal shall take effect on the first day of the sixth month after the date on which the notification was received by the other Party.

Done in London on 10 July 2019, in two original copies in the English and German languages, the texts in each of these languages being equally authentic.

For the Swiss Confederation

For the United Kingdom of Great Britain
and Northern Ireland

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